

REMARKS

Claims 51-69 are presented for examination in the instant application. Claims 51-69 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Lidow (US 2002/0194057). Claims 54, 59, 62 and 67 have been amended. The Applicants submit that claims 51-69 are in condition for allowance and respectfully request reconsideration and withdrawal of the rejections. No new matter has been entered in this amendment.

Support for Claim Amendments

Applicant respectfully submits that support for each of the amended claim recitations can be found and consistent with respect to FIG. 2 and with respect to the accompanying description of FIG. 2 in the specification as now mapped:

Claims 54 and 62:

generating a squared set build plan that is site-specific build plan for each of the plurality of enterprise sites associated with the enterprise. - page 9, lines 8-10, page 12, lines 20-29, and page 13, lines 1-10.

Claim Rejections Under 35 USC § 103

Claims 51-69 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Lidow. The Applicants respectfully traverse the outstanding rejections and submit that claims 51-69 are in condition for allowance.

Claim 54, as amended, recites “A method for facilitating supply chain collaboration over a network, the supply chain including an enterprise, enterprise sites, and at least one supplier, the method comprising: aggregating demand received, at a central server of the enterprise, from a plurality of enterprise sites associated with the enterprise, the demand comprising materials requirements; wherein each of the plurality of enterprise sites comprises divisions that share common material requirements with divisions from others of the plurality of enterprise sites, the common material requirements for each of the divisions corresponding with a product or commodity; generating an unconstrained forecast resulting from the aggregating, the unconstrained forecast generated at a product or commodity level, wherein the unconstrained forecast represents at least one of an aggregated demand and a projected forecast received from a group scattered among the plurality of enterprise sites, and wherein the unconstrained forecast

does not take into consideration any resource constraints; transmitting the unconstrained forecast over the network to each of the suppliers that service the enterprise sites for which the unconstrained forecast is generated; receiving supplier capability statements over the network, the supplier capability statements received by the division at each of the enterprise sites from corresponding suppliers in response to the transmitting; generating a constrained forecast, wherein the constrained forecast is at least one of equal or less than the unconstrained forecast, and wherein the constrained forecast takes into consideration all resource constraints and limits the constrained forecast to most limiting constraints; receiving a formal commitment from the suppliers that service the enterprise sites; transmitting the constrained forecasts to the suppliers at an enterprise site level over the network, wherein the constrained forecasts are sent to only the suppliers who provided the formal commitment; and generating a squared set build plan that is site-specific build plan for each of the plurality of enterprise sites associated with the enterprise.” (Emphasis Added)

As discussed further herein, Lidow does not teach, suggest or otherwise disclose the generation of a squared set build plan. In addition, Applicants claimed invention aggregates demand received from a plurality of enterprise sites associated with the enterprise. Once the constrained forecast is generated, it generates the squared set build plan *individually* for each of the plurality of enterprise sites associated with the enterprise.

As the Office Action indicated, Lidow does not show using a constraint based optimization tool running a squared set analysis; producing a squared set build plan; and inputting the build plan into an MRP tool, as in Applicants’ claimed invention. The Office Action further states that to do so is notoriously old and well-known in the art.

Applicants respectfully request that the Examiner produce documentary evidence in the form of a patent or some other non-patent literature, as authority for the obviousness statement in which it is allegedly notoriously old for using a constraint based optimization tool running a squared set analysis; producing a squared set build plan; and inputting the build plan into an MRP tool, as in Applicants’ claimed invention. As explained in MPEP 2144.03(E): “any facts so noticed should . . . serve only to ‘fill in the gaps’ in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground for rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support

in the record as the principal evidence upon which a rejection was based.” Applicants respectfully submit that using a constraint based optimization tool running a squared set analysis; producing a squared set build plan; and inputting the build plan into an MRP tool is not considered to be common knowledge or well-known in the art. The recitation in Claims 59 and 67 are not of notorious character or capable of instant and unquestionable demonstration as being well-known. Instead, the recitations are unique to the present invention, particularly the production of the constrained forecasts. (See MPEP 2144.03(A) “the notice of facts beyond the record which may be taken by the Examiner must be capable of such instant and unquestionable demonstration as to defy dispute”). As such, there is no evidence supporting the conclusion of obviousness. (See MPEP 2144.03(B) “there must be some form of evidence in the record to support an assertion of common knowledge”).

Fourth, it appears that the Examiner also bases the rejection, at least in part, on personal knowledge. The Examiner is required under 37 CFR § 1.104(d)(2) to support such an assertion with an affidavit when called for by the Applicant. Thus, the Applicant calls upon the Examiner to support such assertion with an affidavit. Otherwise, for at least the above reasons, Claim 1 is allowable.

Since Claims 53 and 62 contains similar features, Claims 53 and 62 are patentable over Lidow for at least the reasons given above for Claim 54. Because Lidow does not teach or make obvious the features recited in Applicants’ Claims 53, 54 and 62, the Applicants submit that Claims 53, 54 and 62 are patentable over Lidow. Claims 51, 52, and 55-61 depend from what should be an allowable base Claim 54. Claims 63-69 depend from what should be an allowable base Claim 62. For at least these reasons, the Applicants submit that claims 51, 52, 55-61, and 63-69 are in condition for allowance and respectfully request reconsideration and withdrawal of the rejections.

CONCLUSION

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that claims 51-69 are in condition for allowance. Accordingly, reconsideration and allowance is respectfully requested. In the event the Examiner has any questions regarding this Amendment, Applicants' attorneys respectfully request the courtesy of a telephone conference.

In the event that there are any additional fees with respect to this Amendment, Applicants' attorneys respectfully request that such fees be withdrawn from Deposit Account No. 50-0510.

Respectfully submitted,

ROBERTO AYALA ET AL.

CANTOR COLBURN LLP
Applicants' Attorneys

By: /Greg O'Bradovich/
Greg O'Bradovich
Registration No. 42,945
Confirmation No. 2135
Customer No. 48915

Date: March 5, 2009
Address: 20 Church Street
22nd Floor
Hartford, CT 06103
Telephone No: 860-286-2929
Fax No: 860-286-0115